

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MICHAEL RISPOLI,

Plaintiff,

-against-

CITY OF NEW YORK, THE NEW YORK CITY
POLICE DEPARTMENT,
POLICE OFFICER FRANKIE SOLER,
In His Individual and
Official Capacities,
POLICE OFFICER RICHARD PIMENTAL,
In His Individual and
Official Capacities,
POLICE OFFICER MYUNGDERUK LEE,
In His Individual and
Official Capacities,
POLICE OFFICER MARCUS HOU,
In His Individual and
Official Capacities,
SARGEANT FRANK CRUCITTO,
In His Individual and
Official Capacities, and
POLICE OFFICERS JOHN DOES #2-10,

Defendants.
-----X

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUN 27 2011 ★

Civ. No.

LONG ISLAND OFFICE

**VERIFIED
COMPLAINT**

SUMMONS ISSUED

CV 11 3061

BLANK
LINDSAY, M

Plaintiff, MICHAEL RISPOLI, by and through his attorneys,
ELOVICH & ADELL, ESQS., as and for his Complaint against
defendants respectfully states and alleges upon information and
belief as follows:

PRELIMINARY STATEMENT

FIRST: This is a Civil Action for monetary relief
including economic loss, compensatory damages, punitive damages,
disbursements, costs and legal fees brought under 42 U.S.C.
Section 1983, 1985 and 1986 grounded in his rights secured by the
First, Fourth, Sixth and Fourteenth Amendments to the United
States Constitution and other New York State Causes of Action.

SECOND: This action is brought against the defendants, CITY OF NEW YORK, THE NEW YORK CITY POLICE DEPARTMENT, POLICE OFFICER FRANKIE SOLER, POLICE OFFICER RICHARD PIMENTAL, POLICE OFFICER MYUNGDERUK LEE, POLICE OFFICER MARCUS HOU, SARGEANT FRANK CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, for committing acts under color of law and depriving plaintiff of rights secured by the constitution, the laws of the United States and the State of New York.

THIRD: Plaintiff alleges that defendants negligently reported, falsely accused, harassed, improperly seized, falsely arrested, falsely imprisoned and caused malicious prosecution to plaintiff, MICHAEL RISPOLI, all in violation of his constitutional and civil rights.

FOURTH: Plaintiff alleges that defendants, CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT, were negligent in training, hiring, disciplining and supervising the defendants, POLICE OFFICER FRANKIE SOLER, POLICE OFFICER RICHARD PIMENTAL, POLICE OFFICER MYUNGDERUK LEE, POLICE OFFICER MARCUS HOU, SARGEANT FRANK CRUCITTO, thus, leading to the unjustified abuse of process, false arrest and false imprisonment of plaintiff, MICHAEL RISPOLI.

FIFTH: Plaintiff alleges that the seizure, frisking and detention of plaintiff was made in an attempt to justify the flagrantly improper and unjustified conduct of defendants, without probable cause, justification or any reason except an intent to deprive plaintiff of his rights, detained plaintiff while he was a passenger in a motor vehicle being driven and operated by

Michael Murphy on Queens Boulevard, County of Queens, State of New York. The wrongful conduct of defendants had the tacit authorization of defendants, CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT. Said use of unjustified authority and force on plaintiff deprived him of his civil and constitutional rights.

SIXTH: That after said unlawful abuse of the plaintiff, defendants then conspired to prevent plaintiff from obtaining information and justification for the actions taken against him to which he was entitled. The defendants, CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT, are liable for the violation of plaintiff's rights, false arrest and false imprisonment because the defendant, CITY OF NEW YORK, has ignored, condoned, covered up and permitted a pattern of abuse of process and has failed to properly investigate said incident and discipline the officers involved with the result that police officers of the defendant, CITY OF NEW YORK, are encouraged to believe that they can violate the rights of persons such as the plaintiff with impunity and that the NEW YORK CITY POLICE DEPARTMENT, has and continues to act in violation of individual rights, constituting through their actions a policy.

SEVENTH: That defendants further conspired to condone and encourage such civil and constitutional rights violations by failing to properly investigate, punish and prevent the actions of the defendants, police officers and by maliciously fabricating, implementing and prosecuting criminal charges against the

plaintiff.

EIGHTH: Such acts caused the plaintiff, MICHAEL RISPOLI, severe damages and injuries including, but not limited to, personal injuries to his body and mind, unnecessary and unwanted pain and suffering, violation of civil rights, permanent damage to reputation and standing in the community, loss of comfort, support, extreme mental and emotional harm and stress, impairment of earning power, expenses and costs as the result of the necessitation of fighting a meritless and malicious criminal prosecution and other injuries not yet fully ascertained.

JURISDICTION AND VENUE

NINTH: That this action is brought pursuant to 42 U.S.C. Section 1981, 1983, 1985, 1986 and 1988 and the First, Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. Section 1331 and 1343 (3)(4) and the aforementioned statutory and constitutional provisions and the common law.

TENTH: That the venue herein is proper under 28 U.S.C. Section 1391(b) because the cause of action arose in the Eastern District of New York.

ELEVENTH: That on June 7, 2010, allotted by Statute, plaintiff filed a Notice of Claim in compliance with General Municipal Law Section 50 et seq. and C.P.L.R. Section 215, as against each municipal defendant. More than thirty (30) days have elapsed since the service of the said Notice of Claim and defendants have neglected and refused to pay or adjust same.

PARTIES

TWELFTH: That during all times mentioned in this Complaint, the plaintiff, MICHAEL RISPOLI, was and is a citizen of the United States residing in the County of Dutchess, Town of Hopewell Junction in the State of New York.

THIRTEENTH: The defendant, CITY OF NEW YORK, hereinafter "CITY", is a duly constituted municipal corporation of the State of New York and is and was the employer of the named police personnel.

FOURTEENTH: The defendant, THE NEW YORK CITY POLICE DEPARTMENT, hereinafter, "POLICE DEPARTMENT", was and is an agent and department of the defendant, "CITY".

FIFTEENTH: That during all times stated herein, defendant, POLICE OFFICER FRANKIE SOLER, hereinafter, "SOLER", was and still is a police officer employed by the defendant, "CITY".

SIXTEENTH: That at all times hereinafter mentioned, defendant, "SOLER", was acting in his official capacity as a New York City police officer and was employed by the defendants, "CITY" and "POLICE DEPARTMENT", acting under the direction and control of defendants, "CITY" and "POLICE DEPARTMENT".

SEVENTEENTH: That during all times stated herein, defendant, POLICE OFFICER RICHARD PIMENTAL, hereinafter, "PIMENTAL", was and still is a police officer employed by the defendant, "CITY".

EIGHTEENTH: That at all times hereinafter mentioned, defendant, "PIMENTAL", was acting in his official capacity as a

New York City police officer and was employed by the defendants, "CITY" and "POLICE DEPARTMENT", acting under the direction and control of defendants, "CITY" and "POLICE DEPARTMENT".

NINETEENTH: That during all times stated herein, defendant, POLICE OFFICER MYUNGDERUK LEE, hereinafter, "LEE", was and still is a police officer employed by the defendant, "CITY".

TWENTIETH: That at all times hereinafter mentioned, defendant, "LEE", was acting in his official capacity as a New York City police officer and was employed by the defendants, "CITY" and "POLICE DEPARTMENT", acting under the direction and control of defendants, "CITY" and "POLICE DEPARTMENT".

TWENTY-FIRST: That during all times stated herein, defendant, POLICE OFFICER MARCUS HOU, hereinafter, "HOU", was and still is a police officer employed by the defendant, "CITY".

TWENTY-SECOND: That at all times hereinafter mentioned, defendant, "HOU", was acting in his official capacity as a New York City police officer and was employed by the defendants, "CITY" and "POLICE DEPARTMENT", acting under the direction and control of defendants, "CITY" and "POLICE DEPARTMENT".

TWENTY-THIRD: That during all times stated herein, defendant, POLICE OFFICER FRANK CRUCITTO, hereinafter, "CRUCITTO", was and still is a police officer employed by the defendant, "CITY".

TWENTY-FOURTH: That at all times hereinafter mentioned, defendant, "CRUCITTO", was acting in his official capacity as a New York City police officer and was employed by the defendants,

"CITY" and "POLICE DEPARTMENT", acting under the direction and control of defendants, "CITY" and "POLICE DEPARTMENT".

TWENTY-FIFTH: That during all times stated herein, defendants, POLICE OFFICERS JOHN DOES #2-10, all of whose names are known to the defendants, "CITY" and "POLICE DEPARTMENT", but unknown to the plaintiff, were police officers with the defendants, "CITY" and "POLICE DEPARTMENT", acting in their official and individual capacities, acting under the direction and control of defendants, "CITY" and "POLICE DEPARTMENT", and are sued herein individually and in their official capacities.

TWENTY-SIXTH: That during all times mentioned in this Complaint, the defendants were acting under color of law, to wit, under color of constitution, statutes, ordinances, laws, rules, regulations, policies, customs and usages of the State of New York and/or the City of New York.

TWENTY-SEVENTH: That during all times mentioned in this Complaint, the defendants and each of them separately and in concert, engaged in acts of misfeasance and/or malfeasance which constituted deprivation of the constitutional rights, privileges and immunities of the plaintiff, Marley's Acts were carried out under color of law; they had no justification or excuse in law and were instead gratuitous, illegal, improper, without any tangible truth and unrelated to any activity in which law enforcement officers may appropriately and legally engage in the course of protecting persons and property or ensuring civil order.

TWENTY-EIGHTH: Each of the defendants at all times relevant to this action had the power and the duty to restrain the other defendants so as to prevent them from violating the law and the rights of the plaintiff, but each of the defendants failed and refused to perform that duty, failed and refused to restrain the other defendants and thereby became a party to the unwarranted harm, arrest, detention, imprisonment and denial of basic rights.

FACTUAL ALLEGATIONS

TWENTY-NINTH: That on or about April 2nd, 2010, plaintiff, MICHAEL RISPOLI, was a lawful passenger of a motor vehicle owned and operated by Michael Murphy.

THIRTIETH: That at the intersection of 76th Road and Queens Boulevard in the County of Queens, State of New York, Michael Murphy brought his motor vehicle to a stop for a red traffic signal located at or near said intersection.

THIRTY-FIRST: That on or about 6:50 p.m. on April 2, 2010, while the Murphy vehicle in which plaintiff was a passenger lawfully stopped at the intersection of 76th Road in Queens Boulevard in the County of Queens, State of New York, the defendants, "SOLER" and "PIMENTAL", approached the Murphy vehicle and without any provocation, probable cause, justification, cause or reason to do so and confronted the operator, Michael Murphy.

THIRTY-SECOND: That at said intersection, plaintiff, MICHAEL RISPOLI, was assaulted and was slammed against the motor vehicle in which he was a passenger without cause, provocation or justification to do so, and without identifying themselves at the

time as off-duty New York City police officers.

THIRTY-THIRD: That at said time, plaintiff, MICHAEL RISPOLI, sustained physical injuries as well as emotional distress while being restrained against his will and pinned up against the motor vehicle in which he was a passenger by defendants.

THIRTY-FOURTH: That after being pinned up against the motor vehicle, defendant, SOLER, released plaintiff, MICHAEL RISPOLI, following an incident that occurred by the other defendant to the driver of the motor vehicle, Michael Murphy, on the other side of the vehicle.

THIRTY-FIFTH: That plaintiff, MICHAEL RISPOLI, observed Michael Murphy beaten and bloody laying on the ground and unresponsive.

THIRTY-SIXTH: That plaintiff, MICHAEL RISPOLI, demanded an explanation from defendants, SOLER and PIMENTAL, and did not receive one.

THIRTY-SEVENTH: That one of the defendants at the scene of the incident involving Michael Murphy instructed plaintiff, MICHAEL RISPOLI, to get in the Murphy car and leave.

THIRTY-EIGHTH: That plaintiff, MICHAEL RISPOLI, refused said instructions and remained at the scene to assist the comatose Michael Murphy.

THIRTY-NINTH: That between 6:50 p.m. and 7:30 p.m. on April 2, 2010, defendants, SOLER and PIMENTAL, did not disclose that they were off-duty New York City police officers.

FORTIETH: The defendants, "SOLER" and "PIMENTAL", were wearing plain clothes, were not uniformed, and were not in a "marked" or official car.

FORTY-FIRST: Plaintiff, MICHAEL RISPOLI, did not know and did not have any reason to know that defendants, "SOLER" and "PIMENTAL", were off-duty New York City police officers.

FORTY-SECOND: That said defendants persisted in instructing plaintiff, MICHAEL RISPOLI, to leave the scene of the occurrence involving Michael Murphy.

FORTY-THIRD: Plaintiff, MICHAEL RISPOLI, was at all times a lawful passenger and pedestrian and refused to leave the comatose Michael Murphy.

FORTY-FOURTH: That approximately ten (10) minutes passed between the time that plaintiff, MICHAEL RISPOLI, first observed Michael Murphy on the ground bloodied and beaten until the time that "marked" New York City police vehicles bearing New York City uniformed police officers responded to the scene of the occurrence.

FORTY-FIFTH: That during the approximate ten (10) minutes prior to the New York City police officers arriving at the scene of the occurrence, defendants, SOLER and PIMENTAL, picked up and removed a baseball bat and threw it across the street located at the intersection of 76th Road and Queens Boulevard, County of Queens, State of New York.

FORTY-SIXTH: That at no time on April 2, 2010 prior to, during or after the said occurrence did plaintiff,

MICHAEL RISPOLI, pick up or demand possession of the said baseball bat at the scene of the occurrence.

FORTY-SEVENTH: That following the arrival of the defendants, "LEE" and "HUO", "CRUCITTO" and defendants, POLICE OFFICERS JOHN DOES #2-10, plaintiff, MICHAEL RISPOLI, was instructed that he could ride in the ambulance with his friend, Michael Murphy.

FORTY-EIGHTH: That after having observed a discussion between the defendants, "CRUCITTO", "LEE", HUO and POLICE OFFICERS JOHN DOES #2-10, plaintiff, MICHAEL RISPOLI, was detained and violently thrown up against the Murphy motor vehicle.

FORTY-NINTH: Plaintiff, MICHAEL RISPOLI, was attacked by defendants, SOLER, PIMENTAL, LEE, HOU and CRUCITTO, and falsely arrested for no justifiable or legal reason.

FIFTIETH: That said officers intentionally, negligently and recklessly used excessive force and applied unnecessary painful pressure to plaintiff's hands, which were in the handcuffs.

FIFTY-FIRST: That when plaintiff, MICHAEL RISPOLI, cried out in pain and he explained to officers that they were causing him pain, defendants continued to assault plaintiff, MICHAEL RISPOLI, by using great and unnecessary force and holding plaintiff against his will, twisted the plaintiff's arms eventually handcuffing plaintiff's arms behind his back and then intentionally intensifying the pain as aforesaid.

FIFTY-SECOND: That at no time did defendants, "SOLER" and "PIMENTAL", identify themselves as police officers at the scene of the occurrence.

FIFTY-THIRD: That at no time did the other police officer defendants, SOLER, PIMENTAL, LEE, HOU and CRUCITTO, who were present at the scene, attempt to prevent the arrest, abuse and beating or come to the aid of plaintiff, MICHAEL RISPOLI, at the time of the wrongful arrest and malicious prosecution and assault on the person of the plaintiff.

FIFTY-FOURTH: That plaintiff, MICHAEL RISPOLI, was wrongfully brutalized, searched, teased, arrested and falsely and maliciously charged with criminal conduct.

FIFTY-FIFTH: That while defendants, SOLER, PIMENTAL, LEE, HOU, CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, forced plaintiff, MICHAEL RISPOLI, toward the police vehicle, they intentionally continued to twist his arms while they were handcuffed behind plaintiff's back.

FIFTY-SIXTH: Upon arrival at the police vehicle, defendants, SOLER, PIMENTAL, LEE, HOU, CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, violently threw plaintiff, MICHAEL RISPOLI, into the police vehicle.

FIFTY-SEVENTH: Plaintiff, MICHAEL RISPOLI, was unjustifiably and unlawfully detained against his will and removed from Queens Boulevard, where he was a lawful passenger and pedestrian, in the presence of neighbors in the community.

FIFTY-EIGHTH: That plaintiff, MICHAEL RISPOLI, was then taken to the City of New York's 112th Precinct, located at 68-40 Austin Boulevard, Forest Hills, New York, where he was processed.

FIFTY-NINTH: Thereafter, plaintiff was without legal justification, held for the rest of the day by defendant, "POLICE DEPARTMENT", at the 112th Precinct to await arraignment with deliberate indifference to his innocence.

SIXTIETH: At no time was the plaintiff read his Miranda Rights and at no time did plaintiff resist arrest or detention in any fashion.

SIXTY-FIRST: Plaintiff was then released later the next day on April 3, 2010 after having been arraigned in Court in Queens County.

SIXTY-SECOND: Prior to being released, plaintiff learned that he was being charged with a violation Penal Law 110/215-40, a felony, Tampering With Physical Evidence.

SIXTY-THIRD: That following his release, plaintiff, MICHAEL RISPOLI, learned that his friend, Michael Murphy, had died as a result of the injuries he sustained while being assaulted by defendant officers as aforesaid.

SIXTY-FOURTH: After learning that Michael Murphy had died as a result of his injuries, the charges asserted against plaintiff, MICHAEL RISPOLI, were changed from felony tampering with evidence to a violation of Penal Law 110/215-40-2 Attempted Tampering With Physical Evidence and also Penal Law 195-05 Obstructing Governmental Administration in the second degree.

SIXTY-FIFTH: That charges were served upon plaintiff, MICHAEL RISPOLI, at his first court appearance on May 7, 2010, in Queens Criminal Court, County of Queens, State of New York, alleging that he had picked up the said baseball bat at the scene of the occurrence after seeing Michael Murphy was lying on the ground. That, in doing so, the defendants alleged that plaintiff, MICHAEL RISPOLI, was attempting to tamper with physical evidence of a crime, to wit: the wooden baseball bat, and obstructing governmental administration in the second degree.

SIXTY-SIXTH: That plaintiff, MICHAEL RISPOLI, was required to retain an attorney and to make multiple court appearances over the course of a year to defend himself against the utterly baseless charges of obstructing of governmental administration and attempted tampering of physical evidence as aforesaid.

SIXTY-SEVENTH: That on March 23, 2010, said charges have all been dismissed against the plaintiff in the interest of justice in the Criminal Court, County of Queens.

SIXTY-EIGHTH: That plaintiff was subjected to false allegations of criminal conduct and was denied his constitutional right of due process and equal protection under the law as well as other rights.

SIXTY-NINTH: That the false accusations, false arrest, wrongful imprisonment and other wrongful acts conducted against the plaintiff by the defendants included, but not limited to defendants, SOLER, PIMENTAL, LEE, HOU, CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, constituted unreasonably force by police

officers as well as abuse of process, abuse of authority, violation of law, violation of police procedures were utterly lacking in probable cause and were maliciously calculated to cover up the commission of the murder of Michael Murphy by defendants, causing harm and damage to plaintiff, MICHAEL RISPOLI.

SEVENTIETH: That such actions were negligent, reckless, malicious, unreasonable and unauthorized.

SEVENTY-FIRST: That the defendants had a duty as law enforcement officers to prevent plaintiff from being falsely arrested, wrongfully imprisoned, but instead they failed to prevent same and breached their duties and also failed to make reasonable inquiry, failed to investigate, failed to collect and document evidence and failed to protect plaintiff's rights.

SEVENTY-SECOND: That as a consequence of defendants' wrongful actions, negligent behavior in violation of State and Federal Laws, plaintiff was deprived of his freedom for an unconscionable period of time, was deprived of his right to free speech, was physically injured, was subjected to unlawful search and seizure, and he sustained great fear, embarrassment, personal humiliation, degradation, deprivation of liberty and economic loss to his business and had to retain an attorney. All of these are rights secured to plaintiff by the provisions of the due process under the First and Fourteenth Amendments of the Constitution of the United States of America as well as the Equal Protection Clause of the Fourth Amendment and by 42 U.S.C. Section 1981, 1983, 1985, 1986, as well as related and applicable New York State

Common Law Claims.

AS AND FOR A FIRST COUNT PURSUANT TO 42 U.S.C. SECTION 1983

SEVENTY-THIRD: That on April 2, 2010, plaintiff, MICHAEL RISPOLI, was placed in fear of his life, falsely arrested, falsely seized and falsely detained by defendants with such excessive and unreasonable force as hereinabove set forth.

SEVENTY-FOURTH: That on April 2, 2010, plaintiff was placed in fear of his life, falsely arrested, falsely seized, falsely detained and held for an unreasonable period of time against his will without justification, explanation or rational basis for such detention.

SEVENTY-FIFTH: That upon information and belief, such seizure, arrest and detention was ordered and was callous, deliberate and indifferent to plaintiff's rights and liberties afforded to him by the Constitution of the United States and was directed by defendants, "CITY", POLICE DEPARTMENT and JOHN DOES #2-10.

SEVENTY-SIXTH: That upon information and belief, the defendants and each of them took an active role in creating and manufacturing the specious legal charges against the plaintiff in an attempt to cover up the assault and subsequent death of Michael Murphy as a result of said incident.

SEVENTY-SEVENTH: That as part of the false arrest, detention and accusations, defendants caused plaintiff to be seized, arrested and held in an uncomfortable compromising position for an unreasonable period of time and searched without

probable cause and was being deprived of his liberty without due process of law and was further exposed to disgrace, public humiliation and embarrassment.

SEVENTY-EIGHTH: That defendants, CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT, SOLER, PIMENTAL, LEE, HOU, CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, individually and collectively, knew or should have known at the time of plaintiff's arrest and at all times since then, that the evidence they had in connection with the charges brought against plaintiff were inconsistent and insufficient as to a matter of law to establish his guilt and was solely or in part the defendants' attempt to cover up their assault and murder of Michael Murphy.

SEVENTY-NINTH: That each of the defendants acted separately and in concert and acted outside the scope of their jurisdiction and without authorization of law.

EIGHTIETH: That each of the defendants, separately and in concert, acted willfully, knowingly and purposely with a specific intent to deprive plaintiff of his right to freedom from illegal search and seizure of his person, freedom from illegal detention and imprisonment. All of these rights are secured to the plaintiff by the provisions of the due process clause of the Fifth and Fourteenth Amendment to the Constitution of the United States of America and the Fourth Amendment, the Equal Protection Clause of the Fourteenth Amendment and by 42 U.S.C. 1983.

EIGHTY-FIRST: That by falsely arresting, falsely imprisoning, abusing, detaining and interrogating the plaintiff

and denying plaintiff his right to free speech, defendants and each of them knew or should have known they were violating laws of the State of New York and those statutory and constitutional rights as set forth herein and they have failed to prevent the violation of same and therefore, they acted in concert to harm the plaintiff.

EIGHTY-SECOND: That as a direct and proximate result of the aforesaid acts of the defendants and each of them, plaintiff suffered great physical harm, mental anguish, economic harm, humiliation, embarrassment and violations of his rights from then until now and he will continue to suffer in the future having been greatly humiliated and mentally injured as a result of the foregoing acts of the defendants.

EIGHTY-THIRD: That plaintiff was forced to incur great expense as of the date of the filing of this Complaint for attorney's fees, investigation expenses and other expenses in clearing his name against the unfounded and unwarranted allegations by the defendants, which have been a serious burden to plaintiff.

EIGHTY-FOURTH: That by reason of the foregoing, plaintiff has been placed in fear of his life, exposed to disgrace, public humiliation and embarrassment and has been damaged in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR A SECOND COUNT -
42 U.S.C. SECTION 1983 MUNICIPAL VIOLATIONS

EIGHTY-FIFTH: Plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "EIGHTY-FOURTH" of this Complaint, with the same force and effect as though fully set forth at length herein.

EIGHTY-SIXTH: That prior to April 2, 2010 and since then, the defendant, CITY OF NEW YORK, has permitted and tolerated a pattern and practice and unjustified, unreasonable and illegal abuse and arrest by police officers of the defendant, CITY OF NEW YORK.

EIGHTY-SEVENTH: That the defendant officers involved were not prosecuted, disciplined or subject to restraint and such incidences where, in fact, covered up with official claims that the attempted cover up of the murder of Michael Murphy by defendants was justified and was proper.

EIGHTY-EIGHTH: That all systems allegedly maintained by the defendant, CITY OF NEW YORK, or defendant, NEW YORK CITY POLICE DEPARTMENT, failed to properly review the unjustified behavior in the use of excessive force by police officers and has failed to identify improper abuse, misuse, violent acts of brutality by New York City police officers and to punish police officers who cover up the commission of an improper incident or falsely detain and arrest a lawful citizen.

EIGHTY-NINTH: That it has become the custom of the New York City police officers to tolerate the improper, illegal arrest and

other wrongful actions by New York City police officers.

NINETIETH: That upon information and belief, specific systemic flaws in the New York City's police, misconduct, review process, including, but not limited to, the following:

A) Preparing reports regarding investigations of unwarranted incidences as routine, point by point justification of the police officers actions regardless of whether such actions are justified;

B) Police Officers investigating unwarranted incidences systemically failed to credit testimony by non-police officer witnesses and uncritically rely on reports by police officers involved in the incident;

C) Police officers investigating unwarranted incidences failed to include in their reports relevant factual information which would tend to contradict the statements of the police officer involved;

D) Supervisory police officers at times issue public statements exonerating police officers from misconduct, excessive use of force and improper arrest before the investigation of the incident by the Police Department has been completed.

NINETY-FIRST: That the foregoing acts, omissions, systemic flaws, policies and customs of the City of New York caused police officers of the City to believe that said improper actions would not be aggressively, thoroughly and promptly investigated with the

foreseeable result that officers are more likely to act inappropriately.

NINETY-SECOND: That as a direct and proximate result of the aforesaid acts, omissions, systemic flaws, policies and customs of defendants, "CITY", the other defendants unjustifiably mistreated, illegally arrested and wrongfully detained the plaintiff. Said detention was in violation of plaintiff's civil and constitutional rights and he has suffered and will continue to suffer from psychological harm, humiliation, fear, defamation of character and injury to his reputation. All of these rights are secured to plaintiff by the provisions of the Fourth Amendment and Sixth Amendment due process clause of the Fifth and Fourteenth Amendments of the Constitution of the United States and by 42 U.S.C. Sections 1981, 1983, 1985 and 1986 and the laws of the State of New York.

NINETY-THIRD: That by reason of the foregoing, plaintiff has been placed in fear of his life, exposed to disgrace, public humiliation and embarrassment and has been damaged in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR A THIRD COUNT -
42 U.S.C. SECTION 1983 ALTERNATE LIABILITY OF THE
CITY OF NEW YORK AND NEW YORK CITY POLICE DEPARTMENT

NINETY-FOURTH: Plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "NINETY-THIRD" of this Complaint, with the same force and effect as though fully set forth herein.

NINETY-FIFTH: That defendants, "CITY" and "POLICE DEPARTMENT", are directly liable for the constitutional violations that plaintiff, MICHAEL RISPOLI, suffered and that defendants, "CITY" and "POLICE DEPARTMENT", hired and retained police officers, who, acting within the course and scope of the power and authority, conveyed to police officers by defendants, "CITY" and "POLICE DEPARTMENT", violated the constitutional rights of plaintiff.

NINETY-SIXTH: That as a direct and proximate result of the aforesaid acts, omissions, systemic flaws, policies and customs of the defendants, "CITY" and "POLICE DEPARTMENT", the other defendants unjustifiably mistreated, illegally arrested and wrongfully detained the plaintiff in violation of the plaintiff's civil and constitutional rights and he has suffered and will continued to suffer from psychological harm, humiliation, fear, defamation of character and injury to his reputation. All of these rights are secured to plaintiff by the provisions of the Fourth Amendment, Sixth Amendment, the due process clause of the Fifth Amendment and Fourteenth Amendments to the Constitution of the United States and by 42 U.S.C. Sections 1981, 1983, 1985 and 1986 and the laws of the State of New York.

NINETY-SEVENTH: That by reason of the foregoing, plaintiff, MICHAEL RISPOLI, has been placed in fear of his life, exposed to disgrace, public humiliation and embarrassment, has been damaged in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR A FOURTH COUNT -
42 U.S.C. SECTION 1983

NINETY-EIGHTH: That Plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "NINETY-SEVENTH" of this Complaint, with the same force and effect as though fully set forth herein.

NINETY-NINTH: That as a consequence of defendants' wrongful acts, willful neglect, callous indifference, negligent behavior in violation of State and Federal laws, plaintiff was deprived of his freedom, was injured, was subjected to unlawful search and seizure, was subjected to mental anguish, suffered great fear, embarrassment, personal humiliation, degradation and loss of business opportunity. All of these rights are secured to plaintiff by the provisions of the due process clause of the Fifth and Fourteenth Amendments, Equal Protection Clause of the Fourth Amendment to the Constitution of the United States as well as the protections afforded under 42 U.S.C. Section 1981.

ONE HUNDREDTH: That by reason of the foregoing, plaintiff has been placed in fear of his life, exposed to disgrace, public humiliation and embarrassment, and has been damaged in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR A FIFTH COUNT -
42 U.S.C. SECTION 1985

ONE HUNDRED FIRST: That plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "ONE HUNDREDTH" of this Complaint, with the same

force and effect as though fully set forth herein.

ONE HUNDRED SECOND: That defendants' accusations and allegations against plaintiff were false, malicious, negligent, reckless, intentional and wrongful and were intended to cause plaintiff injury and to harass plaintiff.

ONE HUNDRED THIRD: That defendants, POLICE OFFICER FRANKIE SOLER, POLICE OFFICER RICHARD PIMENTAL, POLICE OFFICER MYUNGDERUK LEE, POLICE OFFICER MARCUS HOU, SARGEANT FRANK CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, and each of them, expressly and impliedly agreed with each other to bring about plaintiff's unlawful seizure, arrest, detention and false accusations, all without any lawful or proper basis or justification on account of covering up the commission of their improper acts, all without consideration of plaintiff's rights and all in violation of all of plaintiff's rights.

ONE HUNDRED FOURTH: That the false arrest, false imprisonment in violation of the laws of the State of New York and plaintiff's civil rights were brought about caused by the actions of defendants and that same were clear and intentional abuse of process causing plaintiff damages. All of these rights are secured to plaintiff by the provisions of the Constitution of the United States as well as the protections afforded under 42 U.S.C. Section 1985.

ONE HUNDRED FIFTH: That by reason of the foregoing, plaintiff has been placed in fear of his life, exposed to disgrace, public humiliation and embarrassment, and has been

damaged in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR A SIXTH COUNT -
42 U.S.C. SECTION 1986

ONE HUNDRED SIXTH: Plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "ONE HUNDRED FIFTH" of this Complaint, with the same force and effect as though fully set forth herein.

ONE HUNDRED SEVENTH: That defendants, "CITY", "POLICE DEPARTMENT" and POLICE OFFICERS JOHN DOES #2-10, knew or should have known that the defendants, false arrest and wrongful imprisonment of plaintiff, MICHAEL RISPOLI, violated the plaintiff's rights guaranteed to him under the Fourth, Fifth and Fourteenth Amendments and 42 U.S.C. Section 1983, 1985 and 1986.

ONE HUNDRED EIGHTH: That defendants had the authority, ability and concurrent duty under 42 U.S.C. Section 1986 to prevent the false arrest, wrongful detainment and false charging of the plaintiff yet they neglected to prevent the said violations from occurring and further they failed to intervene to protect or aid the plaintiff when such violations did, in fact, occur as hereinabove set forth.

ONE HUNDRED NINTH: That defendant officers failure to stop these wrongful actions constitute a breach of their duty to do so under 42 U.S.C. Section 1986.

ONE HUNDRED TENTH: That both defendants, "CITY" and "POLICE DEPARTMENT", knew or should have known that the fabricated

charges against plaintiff, MICHAEL RISPOLI, were violative of his Fourth, Fifth and Fourteenth Amendments rights to due process and were tantamount to equal protection under the law in violation of the plaintiff's mental rights under the Constitution of the United States of America.

ONE HUNDRED ELEVENTH: That said defendants had and continued to have during the course of the criminal proceedings, the power to prevent the said due process violations against plaintiff, MICHAEL RISPOLI, but they failed to prevent or dismiss the fabricated charges against the plaintiff or to protect the plaintiff from the unwarranted and potential penalties of said charges.

ONE HUNDRED TWELFTH: That the police department and "CITY" exoneration of and refusal to discipline the defendant officers for their misconduct against plaintiff is neglectful of their duty to prevent the further violation of plaintiff's right to compensation under 42 U.S.C. Sections 1981, 1983, 1985 and 1986, despite substantial eye-witness and physical evidence to the contrary.

ONE HUNDRED THIRTEENTH: As a result of the failure of the above stated defendants to prevent the known violations stated above, the plaintiff has suffered extreme fear, personal humiliation and degradation, emotional and psychological harm and physical injury from the actions of defendants, JOHN DOES #2-10.

ONE HUNDRED FOURTEENTH: By reason of the foregoing, plaintiff has been damaged in the sum of THREE MILLION FIVE

HUNDRED AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR A SIXTH COUNT -
42 U.S.C. SECTION 1986

ONE HUNDRED FIFTEENTH: That plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "ONE HUNDRED FOURTEENTH" of this Complaint, with the same force and effect as though fully set forth herein.

ONE HUNDRED SIXTEENTH: That as a result of the failure of the above-stated defendants to prevent the known violations stated above, the plaintiff has suffered extreme fear, personal humiliation, degradation, emotional and psychological harm and physical injury from the actions of defendants.

ONE HUNDRED SEVENTEENTH: That by reason of the foregoing, plaintiff has been placed in fear of his life, exposed to disgrace, public humiliation and embarrassment, and has been damaged in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR A SEVENTH COUNT -
ABUSE OF PROCESS/MALICIOUS PROSECUTION

ONE HUNDRED EIGHTEENTH: Plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "ONE HUNDRED SEVENTEENTH" of this Complaint, with the same force and effect as though fully set forth herein.

ONE HUNDRED NINETEENTH: That the false detainment, wrongful arrest, malicious prosecution and other wrongful acts conducted against the plaintiff by the defendant officers constituted unreasonable and excessive force by police officers as well as

abuse of process, abuse of authority, breach of police procedures and violation of the Fourth, Fifth, Eighth and Fourteenth Amendment rights. The defendant officers negligently and recklessly breached their duty under 42 U.S.C. Section 1986 to prevent a commission of the Civil Rights violation perpetrated against plaintiff, MICHAEL RISPOLI, including violations of 42 U.S.C. Sections 1983, 1985 and 1986 and substantive and procedural due process infraction.

ONE HUNDRED TWENTIETH: That said abuse of process was continued by the New York City Police Department and "CITY's" refusal to adequately investigate and properly discipline the defendant officers for their actions against the plaintiff, MICHAEL RISPOLI, and Michael Murphy, specifically, the "CITY" failed to investigate and verify the voracity of the plaintiff's claims despite the lack of any significant hearing or consideration by the District Attorney's Office of the substantial evidence supporting plaintiff's complaint. Such evidence includes eyewitnesses, consistent testimony and the blatant lack of any probable cause for wrongly stopping, detaining and arresting the plaintiff, MICHAEL RISPOLI.

ONE HUNDRED TWENTY-FIRST: That the continued action taken by the defendant officers to prosecute, harass and fully inconvenience the plaintiff, MICHAEL RISPOLI, with patently false criminal charges is an abuse of process in that using the Courts and judicial process to harass, intimidate, inconvenience and further damage the plaintiff, MICHAEL RISPOLI, despite no

significant evidence for prosecuting the baseless charges of attempted tampering with physical evidence or obstructing governmental administration.

ONE HUNDRED TWENTY-SECOND: That on March 23, 2010, the charges of obstructing governmental administration and attempted tampering with physical evidence were fully dismissed in the interest of justice one year after said charges were brought against the plaintiff, MICHAEL RISPOLI.

ONE HUNDRED TWENTY-THIRD: That as a result of said abuse of process, plaintiff has suffered continued emotional damage including prolonged stress and anxiety, fear and frustration and has been harmed monetarily and his incurring of attorney's fees, lost wages from court appearances, other expenses incurred in the attempt to clear the plaintiff, MICHAEL RISPOLI, from these false and maliciously imposed criminal charges.

ONE HUNDRED TWENTY-FOURTH: That by reason of the foregoing, plaintiff has been damaged in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR AN EIGHTH COUNT - NEGLIGENCE

ONE HUNDRED TWENTY-FIFTH: That plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "ONE HUNDRED TWENTY-FOURTH" of this Complaint, with the same force and effect as though fully set forth herein.

ONE HUNDRED TWENTY-SIXTH: That the "CITY", "POLICE DEPARTMENT" and defendant officers, POLICE OFFICER FRANKIE SOLER,

POLICE OFFICER RICHARD PIMENTAL, POLICE OFFICER MYUNGDERUK LEE, POLICE OFFICER MARCUS HOU, SARGEANT FRANK CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, had a duty under 42 U.S.C. Section 1983, 1985 and 1986 as well as under the Fourth, Fifth, Eighth and Fourteenth Amendments and under New York State Law and their own rules and regulations to prevent and cease the wrongful detainment, false arrest, false imprisonment, malicious and false charging and prosecution as well as a duty to investigate, supervise and discipline defendant officers and prevent other wrongful acts that were committed against plaintiff, MICHAEL RISPOLI.

ONE HUNDRED TWENTY-SEVENTH: That in actively inflicting and failing to prevent the above stated abuses incurred on plaintiff, MICHAEL RISPOLI, all of the defendants acted unreasonably, recklessly and negligently failing to exercise the slightest amount of due care to secure and protect the civil and constitutional rights of the plaintiff against illegal searches, seizure, detained custody and arrest without Miranda warnings and other due process violations. Said rights are guaranteed to the plaintiff by 42 U.S.C. Sections 1983, 1985 and by the Fourth, Fifth and Fourteenth Amendment of the Constitution of the United States.

ONE HUNDRED TWENTY-EIGHTH: That the breach of duty under 42 U.S.C. Section 1986 by "CITY", "POLICE DEPARMENT" and defendant officers, SOLER, PIMENTAL, LEE, HOU, CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, was a direct and proximate cause of the harm

suffered by plaintiff, MICHAEL RISPOLI. Said harm includes physical harm, pain and suffering, which continues to this day, monetary expenses, lost wages and legal costs, personal humiliation, damage to reputation and loss of standing in the community and to fear physical, emotional and psychological damage resulting in the need to seek professional counseling for the trauma which he incurred.

ONE HUNDRED TWENTY-NINTH: That by reason of the foregoing, plaintiff has been damaged in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR A NINTH COUNT - FALSE ARREST

ONE HUNDRED THIRTIETH: That plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "ONE HUNDRED TWENTY-NINTH" of this Complaint, with the same force and effect as though fully set forth herein.

ONE HUNDRED THIRTY-FIRST: That defendant officers, SOLER, PIMENTAL, LEE, HOU, CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, lacked any probable cause to stop, hold and detain the plaintiff, MICHAEL RISPOLI, in custody for any period of time, no less the prolonged period of custody at the 112th Precinct, Queens County Police Department.

ONE HUNDRED THIRTY-SECOND: Without such probable cause, the defendant officers, SOLER, PIMENTAL, LEE, HOU, CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, wrongfully detained the plaintiff, MICHAEL RISPOLI, in the back of a police car and at the police precinct, denied plaintiff's freedom for a period of time.

During said time, plaintiff was physically prevented from leaving the custody of police in that he was handcuffed and surrounded by officers in a police precinct and kept there under the supervision and knowledge of the police.

ONE HUNDRED THIRTY-THIRD: That as a result of said false arrest, plaintiff suffered and continues to suffer pain, great emotional and psychological harm, anxiety and personal fear all due to the callous indifference of said defendants and falsely arresting plaintiff, MICHAEL RISPOLI, and requiring him to face false charges.

ONE HUNDRED THIRTY-FOURTH: That by reason of the foregoing, plaintiff has been damaged in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR A TENTH COUNT -
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

ONE HUNDRED THIRTY-FIFTH: Plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "ONE HUNDRED THIRTY-FOURTH" of this Complaint, with the same force and effect as though fully set forth herein.

ONE HUNDRED THIRTY-SIXTH: That the defendants, "CITY", "POLICE DEPARTMENT", SOLER, PIMENTAL, LEE, HOU, CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, acted outrageously for their above-stated roles in the wrongful stop, detainment, false arrest, prolonged captivity, intimidation and public humiliation of plaintiff, MICHAEL RISPOLI.

ONE HUNDRED THIRTY-SEVENTH: That said emotional harm was

exacerbated by the fabricated criminal charges against the plaintiff known by "CITY" and "POLICE DEPARTMENT" to be without basis yet prosecuted plaintiff with the intention of causing extreme further harm and duress to the plaintiff, MICHAEL RISPOLI.

ONE HUNDRED THIRTY-EIGHTH: That defendants knew that their conduct would cause severe and extreme emotional harm to plaintiff.

ONE HUNDRED THIRTY-NINTH: That said harm did, in fact, occur in this case and that the plaintiff was debilitated to the point where he still suffers from episodes of anxiety, anger, loss of sleep and other factors. To that extent, plaintiff is in need of counseling by psychiatrists or similar health care provider.

ONE HUNDRED FORTIETH: That by reason of the foregoing, plaintiff has been damaged in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR AN ELEVENTH COUNT -
DEFAMATION

ONE HUNDRED FORTY-FIRST: That plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "ONE HUNDRED FORTIETH" of this Complaint, with the same force and effect as though fully set forth herein.

ONE HUNDRED FORTY-SECOND: That on or about April 2, 2010, defendants and defendant officers, SOLER, PIMENTAL, LEE, HOU, CRUCITTO and POLICE OFFICERS JOHN DOES #2-10, falsely arrested, falsely imprisoned and falsely charged plaintiff with

attempted tampering with physical evidence and obstruction of governmental administration.

ONE HUNDRED FORTY-THIRD: That defendants published the defamatory statement with actual knowledge that the charges were false and with reckless disregard to the truth or falsity. Defendants falsely stated and alleged in the presence of other persons and in writing that plaintiff picked up a baseball bat in an attempt to tamper with the physical evidence and cover up the wrongdoing and improper actions of the police department with regards to Michael Murphy. Each of these statements and accusations were maliciously made and were false and were intended to harm plaintiff in his good name, reputation and business.

ONE HUNDRED FORTY-FOURTH: That upon information and belief, plaintiff is not a public figure and is not involved in any public controversy in connection with his profession and/or business. Defendants' defamatory statements do not involve a matter of public concern.

ONE HUNDRED FORTY-FIFTH: That defendants intentionally published defamatory statements by filing criminal charges against plaintiff for the purpose of injuring plaintiff.

ONE HUNDRED FORTY-SIXTH: That as a result of said criminal charges filed against plaintiff by defendants, plaintiff sustained loss profits due to loss of business.

ONE HUNDRED FORTY-SEVENTH: That by reason of the foregoing, plaintiff has been damaged in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS.

AS AND FOR A TWELFTH COUNT -
PUNITIVE DAMAGES

ONE HUNDRED FORTY-EIGHTH: That plaintiff repeats, reiterates and realleges each and every allegation contained in Paragraphs "FIRST" through "ONE HUNDRED FORTY-SEVENTH" of this Complaint, with the same force and effect as though fully set forth herein.

ONE HUNDRED FORTY-NINTH: That the acts of the individual defendants complained of herein were willful, wanton, malicious and oppressive, acted with callous, disregard, recklessness and deliberate indifference toward the rights of plaintiff, MICHAEL RISPOLI, and without concern for the damage they would cause. Defendants' acts were motivated by a desire to cover up the commission of improper action and a desire to harm plaintiff without regard for plaintiff's well-being and were based on a lack of concern and ill-will towards plaintiff. Such acts, therefore, deserve an award of FIVE MILLION AND 00/100 (\$5,000,000.00) DOLLARS as punitive damages.

WHEREFORE, plaintiff demands judgment against defendants, CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT, POLICE OFFICER FRANKIE SOLER, POLICE OFFICER RICHARD PIMENTAL, POLICE OFFICER MYUNGDERUK LEE, POLICE OFFICER MARCUS HOU, SARGEANT FRANK CRUCITTO and POLICE OFFICERS JOHN DOES #2-10:

a. On the First Count in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS;

b. On the Second Count in the sum of THREE MILLION FIVE

HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS;

c. On the Third Count in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS;

d. On the Fourth Count in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS;

e. On the Fifth Count in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS;

f. On the Sixth Count in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS;

g. On the Seventh Count in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS;

h. On the Eighth Count in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS;

i. On the Ninth Count in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS;

j. On the Tenth Count in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS;

k. On the Eleventh Count in the sum of THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$3,500,000.00) DOLLARS;

l. On the Twelfth Count in the sum of FIVE MILLION AND 00/100 (\$5,000,000.00) DOLLARS;

m. Award costs of this action including attorney's fees to the plaintiff; and

n. Award such other and further relief as this Court may deem appropriate.

Dated: Long Beach, New York
June 24th, 2011

By: 
DARRYN SOLOTOFF, ESQ.
ELOVICH & ADELL, ESQS.
Attorneys for Plaintiff
164 West Park Avenue
Long Beach, New York 11561
(516) 432-6263

ATTORNEY'S AFFIRMATION

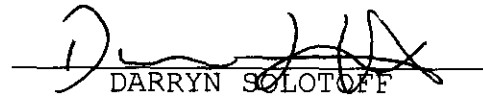
STATE OF NEW YORK:)
) ss.:
COUNTY OF NASSAU:)

I, the undersigned, an attorney admitted to practice in the Courts of New York State, state that I am associated with the law firm of ELOVICH & ADELL, ESQS., the attorneys of record for the plaintiff in the within action; I have read the foregoing **Complaint** and know the contents thereof; the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by the plaintiff on the grounds that plaintiff does not reside in the county in which I maintain my office.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows: Conversations with the plaintiff; documents and records kept in my files.

I affirm that the foregoing statements are true, under penalties of perjury.

Dated: Long Beach, New York
June 24, 2011


DARRYN SOLOTOFF